



THE GOVERNMENT REPLY TO THE FIFTH
REPORT FROM THE HOUSE OF COMMONS
SCIENCE AND TECHNOLOGY COMMITTEE
SESSION 2005-06 HC 1031

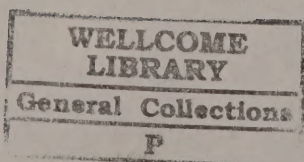
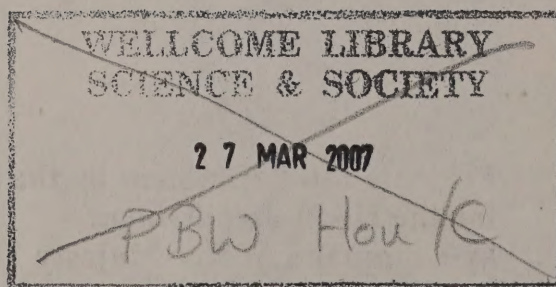
**Drug classification:
making a hash of it?**

Presented to Parliament by the Secretary of State
for the Home Department
by Command of Her Majesty
October 2006

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THE GOVERNMENT REPLY TO THE FIFTH REPORT FROM THE HOUSE OF COMMONS SCIENCE AND TECHNOLOGY COMMITTEE SESSION 2005-06

Drug classification: making a hash of it?

Introduction

1. The Government welcomes the selection of the classification of drugs as one of three case studies the House of Commons Science and Technology Committee chose to inform its wider inquiry into the Government's handling of scientific advice, risk and evidence in policy making.

2. The Committee made 50 wide ranging findings. These include findings concerning the Advisory Council on the Misuse of Drugs as well as the drug classification system. The Government has accepted or accepted in principle 24 findings and rejected 26. The Government has seen the Advisory Council's response which it understands will be submitted to the Committee separately.

3. The Misuse of Drugs Act 1971 established the system by which drugs are classified. Its fundamental purpose was then and remains today to provide a framework within which criminal penalties are set with reference to the harm caused by a drug and the type of illegal activity undertaken in regard to that drug. It is important to have an enduring and stable mechanism for drug control to allow the Criminal Justice System, in respect of drug offences, to function effectively. It is also important that society has reassurance that there is a coherent system in place to categorise drugs and determine the penalties for their manufacture, possession and supply.

4. The Government believes that the classification system discharges its function fully and effectively and has stood the test of time. The current 3-tier classification system allows for clear and meaningful distinctions to be made between drugs. Its familiarity and brand recognition amongst stakeholders and the public is not to be dismissed. There is a wide understanding that Class A drugs are the most dangerous substances, and therefore carry the heaviest criminal penalties, whilst Class C drugs, although still harmful, are not of the same order.

5. The Government does not support the conclusion made by the Committee that the ranking of drugs on the basis of harm should be decoupled from penalties. The harms caused to the individual and to society are the predominant and defining factors in the classification of any drug. As a consequence, it is the Government's position that far from implication, but by its design, the current classification system goes far in establishing a ranking of harms. This is then greatly complemented by a substantial body of evidence that informs and further distinguishes the specific harms of individual drugs.

6. The Government has now laid the draft Order in Parliament to reclassify methylamphetamine under the Misuse of Drugs Act 1971 to a Class A drug at the earliest opportunity subject to the parliamentary process. This is a good example of a fully functioning system.

7. The Government fully agrees with the Committee that the classification system under the Misuse of Drugs Act 1971 is not a suitable mechanism for regulating legal substances such as alcohol and tobacco. However, it should not be imputed that Government takes the harms caused by these drugs any less seriously. We continue to demonstrate our commitment to reduce these harms through the many interventions we make to prevent, minimise and deal with the consequences caused by misuse through our dedicated Alcohol Harm Reduction Strategy and smoking/tobacco programme.

8. The Committee's report made a number of comments about the Advisory Council on the Misuse of Drugs. Whilst a number of its findings were well founded, some may be interpreted in such a way as to call into question the integrity and independence of the Advisory Council as a body, of its Chair, and of its members. We find any such interpretation both unpalatable and unnecessary. The Advisory Council is an independent public body with a long track record of producing well considered, evidence-based reports and challenging recommendations for Government on a number of issues, including but certainly not limited to classification issues. However, we acknowledge and appreciate the move taken by the Committee to explore areas in which the Advisory Council could be improved and updated, such as issues of transparency in their operation and in improving public access to information from and about the Council. We believe that an organisation such as the Advisory Council should be open to reasonable public scrutiny, and we are pleased that in its response, the Advisory Council shares this view.

9. The Government acknowledges that we must look at the way we convey to the public the factors that contribute to the decisions we make on classification matters. To this end, we set out in our Response below a clear and concise structure of the many inputs in the decision making process. In response to another of the Committee's findings, the Government believes that illegality is an important factor when a person is considering engaging in risk taking behaviour and will examine ways in which the evidence-base in relation to this "deterrent effect" can be improved.

10. The Government recognises that the classification system cannot be "all things to all people" – it has a dedicated purpose and expectations must reflect this. Our Response below refers to this, particularly in the context of communication, education and enforcement. Whilst legal control contributes to identify those drugs that have the potential to cause the most harm – to the individual, communities and society as whole, it is the Government's Drugs Strategy through its pillars of prevention, supply reduction, education, treatment (in particular through the Drug Intervention Programme) and rehabilitation that achieves the most, in a far more sophisticated and comprehensive way. The Strategy is having a real impact in tackling drug misuse; the associated harms are now beginning to reduce.

11. The Government has invested record sums in tackling drugs misuse, expanding prevention and treatment provision and has introduced new powers to police and courts to crack down on dealers. Latest figures, published by HMRC for 2004/05, show that over 3,000 kg of heroin and 10,600 kg of cocaine were seized, 299 trafficking groups were disrupted or dismantled and £33.3 million of drug-related criminal assets were seized by law enforcement agencies, depriving dealers of their financial lifeblood. Record numbers are

entering and staying in treatment: the numbers in contact with treatment services has more than doubled since 1998; 13% more people were in contact with treatment services in 2005/06 than in the previous year (over 181,000 individuals) and 78% of drug misusers are being retained in or successfully completing treatment. Drug-related crime is falling: acquisitive crime – to which drug-related crime makes a significant contribution – is going down and fell by almost 16% between April 2004 and April 2006. Class A drug use remains stable among young people aged 16-24, while the use of any illicit drug has fallen by 21%, compared to 1998. Communities are benefiting too: since 2000, there has been a downward trend in the proportion of people perceiving drug use or drug dealing as very or fairly serious problems: from 33% in 2000 to 27% in 2005/06. The Drugs Act 2005, the creation of the Serious Organised Crime Agency, the neighbourhood policing agenda, the treatment effectiveness strategy and the Young People and Drugs Programme all contribute to an extension of the strategy's reach and range of interventions which will bring down even further the harms caused by illegal drugs.

12. In conclusion and for the reasons set out above (as well as in response to the individual findings of the Committee), the Government has decided not to pursue a review of the classification system at this time.

Each of the Select Committee's findings – shown below in bold and numbered in accordance with the Report – are now addressed in turn.

International comparisons

1. We conclude that the UN drug control treaties do not pose a major barrier to reform of the UK system of drug classification.

Accept

It has always been the position of the UK Government that the United Nations Conventions, to which the UK is a signatory, do not pose a significant barrier to a change in the system by which drugs are controlled in this country. However, the Government is not free to legislate entirely as it pleases. It must do so within the parameters set by the Conventions.

Advisory Council on the Misuse of Drugs

2. The Government's total reliance on the ACMD for provision of scientific advice on drugs policy gives the Council a critical role to play in ensuring that policy in this area is evidence based. It is, therefore, vital that the Council is fit for purpose and functioning effectively.

Accept in Principle

The Government agrees with the Committee that it is essential that the Advisory Council on the Misuse of Drugs (the Council) is fit for purpose and functions effectively. It believes that it receives sound advice from the Council, and acknowledges and appreciates the expertise of its members. The Government believes that it functions well and that it can rely on the integrity of the information and advice that the Council provides. However, the Government also acknowledges that, as with any organisation of its kind, it is

essential to ensure that standards are maintained and that it fulfils its function appropriately. The response to finding 14 refers.

However, the Government challenges the assertion made by the Committee that it is totally reliant on the Council for scientific advice. Whilst it is true that the Council is the principal advisory body in this field, the Government also receives advice and information from a number of other bodies, such as the Forensic Science Service, professional bodies in the health field and stakeholder Non-Government Organisations who have undertaken research.

3. The apparent confusion in the drug policy community over the remit of the ACMD suggests that the Council needs to give more attention to communicating with its external stakeholders.

Accept in Principle

This is primarily a matter for the Council. However, whilst the Government agrees in principle with the Committee that it is extremely important for the Council to engage fully with its stakeholders, it is not under any impression that the Council has been lacking in this role. Certainly the majority of our stakeholders, who are also stakeholders of the Council, are both well informed about and by the Council, and maintain good working relationships with it.

4. The fact that the Chairman of the ACMD and the Home Secretary have publicly expressed contradictory views about the remit of the Council is perturbing.

Accept in Principle

The Committee will have seen, from the evidence given by Vernon Coaker on 14 June 2006, that the Government is fully aware of the extent of the statutory remit of the Council. Not only does the Government expect the Council to fully discharge its role, but on the evidence that the Council has provided to the Committee, it is also clear that the Council fully appreciates its scope.

5. The ACMD must look at social harm in its considerations-it is impossible to assess accurately the harm associated with a drug without taking into account the social dimensions of harm arising from its misuse.

Accept

The Government agrees with the Committee that it is essential for the Council to look at social harm in its considerations. The importance of such issues is considerable. A look at any of the Council's recent reports, particularly those from its Prevention Working Group (such as the "Hidden Harm" report which considered the needs of children of problem drug users) demonstrates that the Council shares this view and takes social harm issues very seriously indeed.

6. We acknowledge that some provision has been made to enable departments other than the Home Office to benefit from the ACMD's expertise but the current levels of coordination appear to be entirely inadequate.

7. The ACMD must be much more proactive in ensuring that it provides and promotes scientific advice to underpin drugs policy in the Department for Education and Skills and Department for Health.

Accept both in Principle

The Government is clear that the ACMD should enable Departments other than the Home Office to benefit from its expertise and advice. It is clear that the Council share this view – the Departments of Health, and Education and Skills, along with representatives from the Devolved Administrations (Scotland, Wales and Northern Ireland) are invited to attend all full meetings of the ACMD. In addition, they are also invited to attend the majority of sub-committee and working group meetings held by the Council.

Attendance by these representatives provides an essential conduit between the Council and the Departments in question, allowing Departments to access the Council's expertise and ensuring that the Council is kept abreast of developments and issues of importance across Government.

The Council's reports and recommendations often have specific advice for Departments other than the Home Office, and this can be seen in any of their recent publications (e.g. khat, methylamphetamine, Hidden Harm, Pathways to Problems). To suggest, as the Committee does, that the ACMD only provides advice to the Home Office implies that the Committee have not fully considered the breadth of the Council's publications.

8. We are not in a position to judge whether the current membership is appropriately balanced but emphasise the importance of having a diversity of views represented amongst the experts appointed to reflect the range of views typically held by experts in the wider community.

Accept

The Government agrees that it is important that the membership of the Council reflects the views of a wide range of experts, to ensure that the Council is able to provide "best advice" – up-to-date, well considered and balanced.

9. The ACMD's current policy of co-opting experts onto working groups and sub-committees in order to expand access to specific areas of expertise seems eminently sensible.

Accept

The Government fully support the Committee's comments. The Council's policy of co-opting experts onto working groups and sub-committees ensures that they have at their fingertips, the expertise and experience of those with the greatest knowledge in specific subject areas.

10. We recommend that the term of office for the Chairman of the ACMD be limited to a maximum of five years.

Reject

The Government does not believe that there is any need to limit the term of office of the Chair of the Council in this way. The Chair, as with any other appointed member of a Non-Departmental Public Body (NDPB), is limited to a maximum of 10 years by the mandatory Code of the Office of the Commissioner for Public Appointments (OCPA). On top of that, the Council operates membership cycles of 3 years. Every member, including the Chair, who seeks reappointment after the completion of a three year period (and subject to the 10 year maximum) must undergo a satisfactory appraisal of their performance before being recommended to the Home Secretary for a further term. It is then a matter for the Home Secretary whether or not he wishes to reappoint. The current Chair, Professor Sir Michael Rawlins, is widely respected and effective, and has been reappointed by the Home Secretary on two occasions.

11. The Home Office Chief Scientific Adviser should be tasked with overseeing the appointment of members to the Council.

Reject

The Government does not agree with the recommendation by the Committee that the Home Office Chief Scientific Adviser should oversee the appointment of members to the Council. Appointments to the Council are made in accordance with the mandatory code of the OCPA for lower-tier NDPB's and in keeping with guidance issued by the Cabinet Office. OCPA has advised us that they are completely content with the process followed by the Council, which is overseen at every stage by an independent assessor approved by OCPA. However, the Chief Scientific Adviser has indicated that he will, where appropriate, take a role in advising on the overall composition of the Council, i.e. the appropriate balance of expertise, without being involved in individual appointments.

12. We also recommend that the Chairman always be accompanied by another member of the Council – preferably the Chair of the Technical Committee or the relevant working group – in meetings with Ministers.

Reject

This is a matter for the relevant Minister to determine depending upon the nature of the meeting called. Recent meetings between the current Chair, Professor Sir Michael Rawlins, and Ministers have, primarily, been introductory meetings, enabling Ministers to become acquainted with the Council and the work it does. Where relevant, i.e. where the work of a particular sub-committee or working group is to be discussed, it is most likely that the Chair would suggest to the Minister that the relevant sub-committee/working group Chair attend as well, but this would not be necessary or appropriate at all meetings.

13. There is no point ACPO having a seat on the ACMD if its representatives do not bring their expertise to bear on the problems under discussion. The ACPO representatives have as much relevant experience as do other practitioners and academics on the ACMD and they must play a full and active role in developing the ACMD's position. It is highly

disconcerting that the Chair of the ACPO Drugs Committee appears to be labouring under a misapprehension about his role on the ACMD more than four years into his term of office.

Accept in Principle

The Government accepts that the intelligence and expertise provided to the Council by ACPO members is of great value. The Council also accepts this, and agrees, without question, that the input from its police members has been of central importance to some of its recent work, particularly on classification issues.

Whether the Chair of the ACPO Drugs Committee, Mr Andy Hayman, clearly expressed, during his oral evidence, a comprehensive understanding of the remit of the Council or of his role within it is of significantly less importance than the fact that, for 4 years, he has contributed to the Council in a way described by its Chair, as being of the “greatest importance”, and “critical” to some of the Council’s work. Mr Howard Roberts’ appointment to the Council nearly two years ago has proved similarly valuable.

It is important to stress, however, that appointments are made by the Home Secretary to the Council on an individual basis, and not as representatives of the organisation for which a member works. As with other Council members, both Mr Hayman and Mr Roberts have been able to engage in discussions at Council across a spectrum of issues, and feed in relevant and informative policing information and intelligence, without being required to represent or promote their own organisations’ interests and agendas.

14. It is difficult to understand how the Government can be so confident in the composition and workings of the Council without having sought any expert or independent assessment, and disappointing that it takes such a dismissive view of the need to do so.

Reject

The Government is not dismissive of the need to assess the workings of the Council. In fact, on 19 July 2006, as part of the wider Home Office reform agenda, Sir David Normington, Permanent Secretary to the Home Office, wrote to Professor Sir Michael Rawlins to inform him that the Council would be included in a review (to report back in April 2007) of the Home Office’s Public Bodies. The purpose of the review is to improve the performance of the Home Office by examining the performance frameworks of organisations such as the Council. Considerations will include an assessment of accountabilities, freedoms, flexibilities and performance expectations. For example, the Government wants to be sure that there are strong arrangements in place for overseeing performance. This should include timely, accurate information and assurance that the risks are being identified and managed – especially risks to the public. The review will give us the opportunity to contribute constructively to the considerations being given by the Council and its Chair to improve service quality and value for the public. The review will be led by Peter Makeham, Director General for Performance and Reform at the Home Office.

15. We recommend that the Home Office commission independent reviews to examine the operation of the ACMD not less than every five

years. The first such review should be commissioned as soon as possible to enable the outcome to feed into the current re-examination of the classification system. This review should also address the relationship between the Home Office and ACMD and whether the current secretariat arrangements are working in a satisfactory manner.

Accept in Principle

The Government's response to recommendation 14, above, refers. The Government has already commissioned a review of all Home Office NDPB's, including the Council, as part of the wider Home Office reform agenda. Without wishing to pre-empt the findings of that review, it is possible that the review will consider whether more frequent examinations of this nature are necessary.

Cannabis

16. Changes in drug policy, especially classification decisions, must be accompanied by a comprehensive information campaign. We recognise that the Government did undertake a campaign when the reclassification of cannabis came into effect but in view of the subsequent confusion, which was publicly acknowledged by the Home Secretary, we can only conclude that these efforts were insufficient.

Accept in Principle

We agree that comprehensive information campaigns are needed to support changes in drug policy and classifications. As the Committee states, there was an information campaign following the reclassification of cannabis in 2004 – over £1 million was spent on a range of targeted communications and evaluation showed that following that campaign 93% of people knew that cannabis was still illegal. The Government invests a significant level of resources in educating young people, in particular about the harms that illegal drugs cause. £9 million has been spent on the FRANK campaign to date, and this is being further supplemented this year through additional spend on cannabis related communications, a mental health campaign and an information pack for pupils and teachers available to every secondary school in England. All of this communication is rigorously evaluated, updated and improved. The FRANK helpline now receives over 1,000 calls a day and the website receives over 15,000 hits a day.

17. We recognise that the Home Secretary followed due process in asking the ACMD to review the classification of cannabis in response to concerns about the link between cannabis use and mental illness and perceptions that cannabis was becoming more potent. However, the timing of the second review against a backdrop of intense media hype and so soon after the change in cannabis classification had come into effect gave the impression that a media outcry was sufficient to trigger a review.

Reject

The Misuse of Drugs Act 1971 specifically contemplates that there are matters that the Home Secretary (as well as the Secretaries of State for Health, Education and the Devolved Administrations) will refer to the Council for advice. In his letter to the Council of 18 March 2005, the previous Home

Secretary Charles Clarke made very clear that he felt that the publication of several studies on the effects of cannabis on mental health merited a reassessment by the Council of its position. Whilst it had maintained a “watching brief” over the emerging evidence, the prompt by the Home Secretary ensured that a full and formal review was expedited. This led to the publication of the Council’s report *“Further consideration of the classification of cannabis under the Misuse of Drugs Act 1971”*, almost 4 years after its previous advice in 2002.

The call for a “second review” came from a genuine concern that the evidence base had grown substantially in this area since 2002, and that the Government’s position, both in the areas of health and potentially legal classification, needed to be better informed.

Whilst the previous Home Secretary would have been aware of reports in the media, any impression that the review came as a direct result of media attention is far from reality. The ability of a Home Secretary, or any Secretary of State, to refer a matter to the Council must be unfettered by concerns that it gives an impression that such a referral is as a result of anything other than legitimate reasons.

18. Having already caused confusion by failing to adequately communicate the implications of the reclassification of cannabis to the public, the Government must be careful that any additional changes to policy relating to cannabis do not further cloud the picture.

Accept in Principle

Whilst we do not wholly accept the claim that the Government caused confusion through inadequate communication, we do accept that Government has responsibility to ensure that any future changes to policy are clearly and coherently communicated. As set out in our response to finding 16, there are large scale education campaigns on cannabis underway, through FRANK and through education packs, available to every secondary school teacher and pupil in England.

19. We have found no conclusive evidence to support the gateway theory.

Accept

The Government welcomes this further support of its established position on the gateway theory.

Magic mushrooms

20. The Government’s use of a clarification of the law to put fresh magic mushrooms in Class A contravened the spirit of the Misuse of Drugs Act and meant that the ACMD was not given the chance to consider the evidence properly before responding.

Reject

It is fundamental to our drugs laws that they are clear and unambiguous – for the benefit of the public, for the enforcement agencies and for the judiciary.

Prior to the law change, it was a matter of interpretation as to what constituted a preparation or a product of “magic mushrooms” and consequently a Class A drug. This led to a great deal of uncertainty and as a result it was the judiciary that called for the Government to clarify the statutory position. It would have been a dereliction for the Government not to respond.

It was perfectly legitimate for the Government to take the action that it did, and in particular to expedite it by taking the legislative opportunity that arose with the introduction of the Drugs Act 2005. The Council was fully aware of the Government’s concerns prior to the law change and was given the opportunity to advise. Consultation with the Council was not a requirement under the terms of the Misuse of Drugs Act in this instance – as the clarification was made by primary legislation. Consequently, far from contravening the spirit of the Act, the Government upheld it by referring the issue to the Council.

21. The Chairman of the ACMD’s attitude towards the decision to place magic mushrooms in Class A indicates a degree of complacency that can only serve to damage the reputation of the Council.

Reject

When asked for its views on the proposals to include fresh magic mushrooms in Class A alongside prepared magic mushrooms and the active ingredients psilocin and psilocybin, the Council made it very clear that they felt a clarification of the law on this matter was required. It shared the Government’s view that the increasingly widespread and public sale of these hallucinogenic mushrooms was unacceptable and should be stopped. This is a clear public health issue.

Whether the Chair of the Council was “complacent” in his attitude when giving evidence or whether he was simply reflecting the common sense of the decision is a matter of interpretation.

22. The ACMD should have spoken out against the Government’s proposal to place magic mushrooms in Class A. Its failure to do so has undermined its credibility and made it look as though it fully endorsed the Home Office’s decision, despite the striking lack of evidence to suggest that the Class A status of magic mushrooms was merited on the basis of the harm associated with their misuse.

Reject in Principle

This is a matter for the Council, although the Government notes from its response to the Committee on this matter that the Council does not share the Committee’s view. The Government endorses the Council’s position.

Ecstasy and amphetamines

23. We see the logic behind the differential classification of amphetamines depending on the method of administration but regret the fact that the same rationale has not been applied, where appropriate, to other drugs. We recommend that a consistent policy be developed as part of the forthcoming review of the classification system.

Accept in principle

The rationale for the classification of amphetamines to a Class A drug when prepared for injection is solely based on the increased risk of contracting Hepatitis B and C, HIV (which can lead to AIDS) and other blood-borne diseases through shared injecting equipment, such as needles, syringes, spoons, filters or other paraphernalia. If there are any other Class B or C drugs that the Council considers should be upgraded to a higher classification to reflect these greater risks, the Government would welcome the Council's advice.

24. In view of the high-profile nature of the drug and its apparent widespread usage amongst certain groups, it is surprising and disappointing that the ACMD has never chosen to review the evidence for ecstasy's Class A status. This, in turn, highlights the lack of clarity regarding the way the ACMD determines its work programme. We recommend that the ACMD carries out an urgent review of the classification of ecstasy.

Reject.

The Government has no intention of reclassifying ecstasy.

Ecstasy can and does kill unpredictably; there is no such thing as a "safe dose". The Government firmly believes that ecstasy should remain a Class A drug.

25. The recommendation by the ACMD that methylamphetamine should stay in Class B because of the signal that reclassification might send to potential users has given us serious cause for concern. We recognise that the Council often has to make recommendations on the basis of weak or limited evidence, but invoking this non-scientific judgement call as the primary justification for its position has muddied the water with respect to its role.

Reject

Methylamphetamine use (and its manufacture) carries very real risks, both to the individual and to society. Given the nature of some of its harms, and given the breadth of the remit of the Council, explored earlier in this Response, it does not seem inappropriate to the Government that the Council made recommendations of the nature that it did in November 2005. It appears that the Committee in preparing its Report continually overlooked the statutory remit of the Council and failed to acknowledge the distinctions between it and the more conventional "scientific advisory bodies". It seems entirely appropriate that the Council should have made recommendations which took account of the social risks and potential threat of methylamphetamine.

26. It is highly regrettable that the ACMD took it upon itself to make what should have been a political judgement.

Reject

As made perfectly clear in the Council's own response to this finding, the Council is statutorily required by the Misuse of Drugs Act to provide advice on ways in which the misuse of drugs should be most appropriately tackled; and how to avoid, or deal with, the social consequences associated with substance

misuse. The Government shares the Council's view that this is exactly what it did on this occasion, and disagrees with the assertion made by the Committee that the Council took a "political judgement".

27. The ACMD's decision to revise its position and recommend that methylamphetamine become a Class A substance will be welcomed by many. However, the fact that the ACMD changed its mind so quickly makes it look like the Council either realised that it had made a mistake, or had succumbed to outside pressure.

Reject

The reasons behind the Council's decision to revise its position on methylamphetamine between November 2005 and June 2006 are set out very clearly in its letter to the Home Secretary, which was published on 5 June 2005. It highlighted that there were indications that the use of methylamphetamine was becoming more prevalent in the UK and that there was emerging police intelligence about domestic synthesis of the drug. Furthermore, they made clear that one of their reasons in November 2005 for not recommending reclassifying it to Class A (to ensure the drug retain a low public profile) had been made redundant by broad media coverage of the drug, and its harms (and attraction to potential users) were now of a higher profile.

Transparency – ACMD

28. We do not accept that the majority of the Council's work requires the level of confidentiality currently being exercised. The ACMD should, in keeping with the Code of Practice for Scientific Advisory Committees, routinely publish the agendas and minutes for its meetings, removing as necessary any particularly sensitive information.

Accept

Whilst this is primarily a matter for the Council, the Government agrees that there is a need to increase the transparency of the work of the Council. The Government understands, from its response, that the Council intends to undertake an assessment of how it can increase the transparency of its work and to explore the most appropriate methods by which it can proceed with publishing the minutes of its meetings. The Government encourages the Council to do so at the earliest opportunity and will support it wherever possible in this work.

29. Holding open meetings where the public could witness the processes used by the ACMD in developing its recommendations could have enormous benefits in terms of strengthening public confidence in the scientific advisory process. We do not believe that the need for confidentiality in discussion of certain topics is an insurmountable obstacle to holding occasional, if not routine, meetings of this nature.

Accept

As in finding 28, above, this is primarily a matter for the Council although the Government is aware that it is a matter that the Council has agreed to consider. Again, the Government supports the Council's decision.

30. It is extremely disappointing that the Council has not taken any steps to increase the transparency of its operations and, moreover, that the Chairman displayed so little interest in improving the Council's approach.

Reject

With reference to the evidence presented to the Committee and as set out very clearly in the Council's response to this finding, the Chair of the Council was not dismissive of these issues and did not display "so little interest" as suggested by the Committee. In both his oral evidence and in the Council's written evidence (annexed to the Committee's own report) the Chair, and the Council as a whole, made it very clear that issues of transparency within its work are ones in which it has a great interest, and has dedicated some time towards considering. It is surprising, given the Chair's comments and the Council's submissions to the Committee, that it should reach such a conclusion.

Transparency – Home Office

31. We acknowledge that in this sensitive policy area scientific advice is just one input to decision making, The Home Office should be more transparent about the various factors influencing its decisions.

Accept in principle.

Decisions made by Government on classification matters rightly attract considerable interest and, in many cases, polarise views. The Government has made significant efforts to make very clear the reasons why it has classified or reclassified a drug, whether to Parliament or the public.

The drug classification system is not a simple measure of medical or social harms caused by drugs. Whilst these measures are at its very core and cannot be overstated, it represents a more complex assessment from a wide range of sources to ensure that any decision to classify or reclassify a drug is as unbiased and objective as possible.

In response to the Committee's findings, the Government is pleased to set out the criteria it adopts when making classification decisions.

Decisions are based on 2 broad criteria – (1) scientific knowledge (medical, social scientific, economic, risk assessment) and (2) political and public knowledge (social values, political vision, historical precedent, cultural preference). Decisions must take account of scientific knowledge of medical harms, and social and economic evidence, as well as the insight provided by public consultation, and the knowledge and understanding provided by public bodies and Government departments.

The table below expands on these criteria and sets out a range of knowledge inputs upon which decisions are made within the classification framework.

**TABLE OF KNOWLEDGE INPUTS INTO
CLASSIFICATION SYSTEM**

Knowledge type	Comment
Scientific evidence on medical harms and risks is integrated into the drug classification system; this is always under review, as the nature and content of scientific knowledge changes.	Integrated into classification via the Council
Social and economic knowledge: Understanding of the social context and complexity of social harms and risks is provided through consideration of social research generally as well as the pursuit of in-house research into the drugs problem (covers e.g. user groups, vulnerable groups, social impacts such as crime, interaction with Criminal Justice System, economic costs of use and treatment). This is similarly under continuous review as the nature and content of social scientific knowledge changes.	Integrated into classification via the Council
Public consultation is an important mechanism for accessing and considering wider views of experts and non-experts alike, assessing core social values and consensus.	Input into process through post Council's recommendation consultations and current broader consultations with the public/ stakeholders
International partners' insight and experience is important source of learning from other contexts.	Liaison with international officials provides input into process
Political knowledge: the expertise of politicians – an understanding of the political context, the potential long term consequences of decisions.	Integral to the process

All of these inputs to the decision-making process are important. No single form of knowledge or rationality associated with that knowledge (for instance, that rationality associated with medical science) is sufficient on its own. However, in the exceptional cases where the scientific knowledge is overwhelming, the Government may take a view whether further knowledge and understanding can be provided by public consultation and will exercise its discretion accordingly, in line with Cabinet Office guidelines.

32. If the Government wishes to take into account public opinion in making its decisions about classification it should adopt a more empirical approach to assessing it. The Government's current approach is opaque and leaves itself open to the interpretation that reviews are being launched as knee-jerk responses to media storms.

Reject

As the response to finding 31 establishes, there are many factors that influence decisions on classification issues, one of which is the views of the public and stakeholders. Ministers and officials continually receive representations, information and evidence from a broad spectrum of organisations not least academics, the police, service providers, frontline workers and pressure groups. Major campaigns such as FRANK are continually monitored and evaluated, providing Government with insight into levels of public awareness and concerns, as well as the most common myths and misunderstandings. In addition, large-scale Government research such as the British Crime Survey and National Schools Survey provides information on patterns and trends of drug use. It is these sources of information from the public that are routinely gathered and assessed that inform decisions on classification, not media storms.

33. More generally, we have identified a pressing need for both the Home Office and ACMD to institute a more systematic approach to reviewing the classification of individual drugs. We recommend that the Home Office and ACMD draw up a list of criteria to be taken into account in determining whether a review of a particular drug is required.

Accept in Principle

The classification system provides an established means (through the Council) for revisiting and revising the classification of a drug. When there is evidence of a new drug being misused the Council will take the first step in the "knowledge inputs" and make a thorough assessment of its harms and how and where it should be reflected within the 3-tier classification system. This is important because new drugs come into fashion or are discovered, our understanding of medical or social harms may change, or public and political priorities may change. The Government is content that this is a satisfactory mechanism by which classification, as well as other aspects beyond the single issue of legal status, of an individual drug is considered.

Evidence for deterrent effect

34. We have found no solid evidence to support the existence of a deterrent effect, despite the fact that it appears to underpin the Government's policy on classification. In view of the importance of drugs

policy and the amount spent on enforcing the penalties associated with the classification system, it is highly unsatisfactory that there is so little knowledge about the system's effectiveness.

Reject in Principle

The Government fundamentally believes that illegality is an important factor when people are considering engaging in risk taking behaviour. The exposure to criminal sanction, in particular through sentencing, influences perceptions and behaviour. It believes that the illegality of certain drugs, and by association their classification, will impact on drug use choices, by informing the decisions of dealers and users. Imposing penalties on the offence of possession is intended to deter use, particularly experimentation by young people.

Whilst the Government accepts that there is an absence of conclusive evidence in relation to the deterrent effect of the existing classification structure, there is some evidence from the Offending, Crime and Justice Survey that the deterrent effect of harsher sentencing was greater among those admitting to the supply of a Class A drug, compared with other offences.

The Government will consider ways in which the evidence base in the context of the deterrent effect can be strengthened.

35. The Government's desire to use the Class of a particular drug to send out a signal to potential users or dealers does not sit comfortably with the claim that the primary objective of the classification system is to categorise drugs according to the comparative harm associated with their misuse. It is also incompatible with the Government's stated commitment to evidence based policy making since it has never undertaken research to establish the relationship between the Class of a drug and the signal sent out and there is, therefore, no evidence base on which to draw in making these policy decisions.

Reject.

The purpose of the Government's communications on drugs is to prevent drug misuse and reduce harm. The aim is to provide credible and accurate information on the legal consequences of taking drugs and the harms to health that drug misuse can cause. This means that it is necessary to explain the classification of drugs. The use and dealing of Class A drugs carries greater legal penalties and the impact on health is greater. It is therefore incumbent on the Government to explain this. However, the classification of particular drugs is not the only basis for communications – assessments are made of target audiences and the ways in which they can most effectively be reached. To this extent considerable research is undertaken to ascertain the most effective way to communicate. The FRANK campaign, for example, does not use drug classification as its primary vehicle for explaining the consequences of drug misuse. Instead, it focuses on health and social risks, normative education and resistance skills.

Evidence base for classification decisions

36. If, as the ACMD Chairman indicated to us, the Council's work has been seriously hindered by the lack of evidence, the ACMD should have

been far more vocal in pressing Ministers to ensure that more research was commissioned to fill the key gaps in the evidence base.

Reject

It is inaccurate of the Committee to imply that the Council has not made recommendations to the Government about the need for further research in some of the areas that it had been considering. In fact, the Council made a series of recommendations about research and data collection in its reports on ketamine, methylamphetamine cannabis and khat, all of which the Home Office accepted. Initial data from some of the methylamphetamine work is expected shortly. Research is not a quick process. Time is required to commission, undertake, interpret, present and evaluate the work.

UK investment in research

37. UK investment in addiction research is woefully inadequate. The Government's failure to ensure that sufficient resources are devoted to building the evidence base to underpin drugs policy is at odds with its commitment to adopt an evidence based approach.

Reject

The Government rejects the assertion that addiction research is woefully inadequate. Significant research has been undertaken not only by the Home Office, but also by the Department of Health, the Scottish Executive and the Medical Research Council among others. However, the Government acknowledges that there is a need for this to be better co-ordinated.

38. The Government has been remiss in failing to conduct a proper evaluation of the impact of its policy decisions in this area and has, as a result, missed out on opportunities to gather valuable data to improve policy making in the future.

Accept in Principle

The Government agrees that the Home Office has not, to date, undertaken any substantial research on the impact of reclassification. Such research is generally acknowledged to be extremely challenging. However, social researchers have sought to address this gap through a number of means which include the following :

- Through rigorous research which provides background evidence to inform the reclassification decision. Specifically it gives some understanding of the context that will be affected by policy decisions.
- By monitoring changes in prevalence nationally and among particular groups.
- By ensuring that information about classification which is distributed to the public is based on sound evidence e.g. the 'Understanding Drugs' Key Stage 3 resource which draws on the £2.4 million Blueprint evaluation of a drugs education pilot.

39. It is essential that the ACMD and Home Office develop better relationships with the Research Councils, particularly the Medical Research Council and the Economic and Social Research Council, and further improve relations with the Department of Health. The fact that the Council has not devoted much effort to this in the past has been a contributing factor to the weakness of the UK evidence base on drugs policy and addiction.

Accept in Principle

The Government has taken note of the comments by the Committee about improving its relations with the Research Councils, particularly the Medical Research Council and the Economic and Social Research Council. The Home Office Chief Scientific Adviser has regular meetings with all the relevant Research Councils and will use these meetings to raise issues where relevant. We will consider where further improvements can be made in our interactions with these bodies and take steps to act upon this where possible and appropriate.

The Government does not believe that interactions between the Home Office or the Council and the Department of Health are lacking, and disagrees with the Committee's assertion to the contrary.

40. We do not underestimate the challenges involved in undertaking scientific studies concerning the misuse of illegal drugs, but the Government must not use this as an excuse for not fulfilling its obligations to undertake proper evaluations of the impacts of its policies and to fund research for the public good.

Accept in Principle

The Government is undertaking considerable work to improve the rigour of its evaluations, and the Research, Development and Statistics Directorate is committed to a programme of work to drive up quality standards.

Assessment of harm

41. We welcome the initiative taken by the ACMD Technical Committee to develop a standard framework for the assessment of harm but we also note that determining harm scores using the matrix is almost as much an art as a science.

Accept in Principle

There is perhaps some benefit in the type of work initiated by the Council's Technical Committee, although the Government understands that it is at a developmental stage, has yet to be peer reviewed and has not been approved or adopted by the full Council. It welcomes the Council's efforts to develop a useful tool in assessing the harms posed by drugs, and looks forward to seeing further progress. However, at best, such a tool can only complement, not replace, the overall assessment made by the Council and consequently the Government as to an individual drug's classification.

Current classifications

42. We understand that the ACMD operates within the framework set by the Misuse of Drugs Act 1971 but, bearing in mind that the Council is

the sole scientific advisory body on drugs policy, we consider the Council's failure to alert the Home Secretary to the serious doubts about the basis and effectiveness of the classification system at an earlier stage a dereliction of its duty.

Reject

The Council has made clear that it supported Charles Clarke's intention to undertake a review of the classification system under the Misuse of Drugs Act 1971. It is entirely within its prerogative to do so. However, the Council has never suggested that this support stemmed from a fundamental objection, either in principle or in operation, to the current system.

The Government therefore concludes that the reason why the Council had not made such a recommendation at an earlier stage was that it did not consider a review necessary. This is not, as the Committee suggests, a dereliction of its duty but more an indication that the Council did not feel that the current system was ineffective nor that a review of the classification system should be a priority for the Government in the wider context of the implementation of the Drugs Strategy.

Review of classification system

43. We urge the new Home Secretary to honour his predecessor's promise to conduct the review – our findings suggest that it is much needed. Although we are, of course, pleased that the Home Office is placing such store by our recommendations, the long delay in publishing the consultation paper on the review of the classification system has been unfortunate and should be rectified immediately.

Reject

See Introduction

Relationship between classification and penalties

44. The dismissive tone adopted by the Chair of the ACPO Drugs Committee in giving evidence to this inquiry was disappointing, but his lack of concern over the classification system was also revealing.

45. The fact that the classification system is of such minor importance to the police suggests that it is not fit for purpose.

Reject both

The Chair of the ACPO Drugs Committee was not dismissive about the classification system; he simply made clear that the classification of a drug was not the sole factor in determining its position within policing priorities. This was a view shared by the Police Federation.

Furthermore, Mr Hayman has been an active participating member of ACMD for 4½ years. Following the decision by the Government to re-classify Cannabis from Class B to C in 2004, Mr Hayman personally worked with Chief Constables to ensure that the whole of the police service changed the way it policed Cannabis taking specific account of the advice of ACMD and the Government.

It appears that the Committee has failed to acknowledge that Chief Constables, rightly, have the authority to determine, within reason, priorities for their constabularies, and that frameworks such as the classification system for drugs act as useful guidelines, but are by no means prescriptive. For example, in September 2006 the ACPO Drugs Committee led a national campaign against Cannabis 'Factories'. Although Cannabis is a Class C Drug the harm from organised crime commercially producing Cannabis has influenced action. This demonstrates how other factors impact on policing drugs supply which falls outside the limits of a classification system. Chief Constables, whilst operating within the parameters of the law, will assess the issues of most importance within the communities for which they are responsible, and dedicate resources to those issues that are causing the most harm to communities within their force areas.

To imply, as the Committee does, that such action by the police renders the classification system not fit for purpose is naïve. It disregards the very important, well considered decisions made by Chief Constables, who use the framework of the classification system to inform their decisions on policing priorities. Earlier this year it was the ACPO Drugs Committee, led by Mr Hayman that presented evidence to ACMD in an effort to convince them to recommend to the Government a need to reclassify Methylamphetamine from Class B to Class A, so that policing activity would be prioritised by Chief Constables towards the emerging threat from this drug. This action directly indicates the importance and value that ACPO gives to the framework of a classification system.

Furthermore, the classification system acts not only as a guide to the police, but also informs other law enforcement agencies, such as the Serious and Organised Crime Agency and HM Revenue and Customs in the setting of their priorities in tune with the Government's assessment and expectations.

46. We recommend that the Government make this de facto relationship more explicit and decouple the ranking of drugs on the basis of harm from the penalties for possession and trafficking.

47. Decoupling penalties and the harm ranking would permit a more sophisticated and scientific approach to assessing harm, and the development of a scale which could be highly responsive to changes in the evidence base.

48. A more scientifically based scale of harm than the current system would undoubtedly be a valuable tool to inform policy making and education.

Reject all.

A fundamental purpose of the classification system is to provide a framework within which penalties are set with reference to the harm caused by a drug and the type of illegal activity undertaken in regard to that drug e.g. possession or supply/trafficking. With reference to paragraph 31 above, whilst there are several inputs determining classification, the harms caused to an individual and to society are the predominant and defining ones, and a pre-requisite to any consideration of control or classification under the Misuse of Drugs Act. As a consequence, the current classification system incorporates an index of harm.

By using a 3-tier system, which paints the picture with a relatively broad brush, the distinctions between those drugs controlled by the Act are clearer and more meaningful. It allows distinct divisions to be made between the most harmful drugs and those that are considered less harmful. It also provides an intermediate class which affords the system far more subtle and flexible distinctions. In respect of the categorisation of some drugs there will be a natural tension and consequentially much debate as to the class within which that drug should sit, but that does not make the system weak or less than robust; it simply reflects the complexities of ranking individual drugs.

Sitting alongside the classification system, and in the public domain, are numerous additional resources which inform and distinguish the specific harms of individual drugs. These should not be dismissed and are valuable tools in informing policy makers and education. A prime example is the Council's Reports on various substances which set out in great detail the range of harms attributable to a drug and would refute, as no doubt the Council would, that they have been compiled with anything less than scientific rigour.

Benefits of a more scientifically based scale of harm

49. It is vital that the Government's approach to drugs education is evidence based. A more scientifically based scale of harm would have greater credibility than the current system where the placing of drugs in particular categories is ultimately a political decision.

Accept in principle

The Government accepts that drugs education should be evidence based. DfES drug education guidance to schools is based on the best available evidence and good education practice. To develop the evidence-base further, the Home Office is running Blueprint, the largest research programme ever run in this country to evaluate the effectiveness of a multi-component approach to school-based drug education. The programme was delivered in spring term 2004 and 2005. Full results of the research will be available in early 2008, although we are already using interim research findings, for example to develop the recent Home Office / DfES Understanding Drugs pack for schools.

The aim of drug education is to provide opportunities for pupils to develop their knowledge, skills, attitudes and understanding about drugs and appreciate the benefits of a healthy lifestyle, relating this to their own and others' actions. The relative harms of drugs, which include alcohol and tobacco, are one aspect of this approach. Increasing pupils' knowledge includes information on the legal status of drugs but equally the effects of drugs, their impact on individuals and the community as well as the social context. The development of skills centres on enabling pupils to stay safe and healthy and to deal effectively with pressures to use drugs. Work on attitudes includes enabling pupils to explore and challenge the influence of the media and others in relation to drugs. DfES guidance is clear that all schools need to set realistic aims for their drug education which include the above and which are consistent with the values and ethos of the school and the laws of society, as well as appropriate to the age and maturity of pupils.

50. In our view, it would be unfeasible to expect a penalty-linked classification system to include tobacco and alcohol but there would be merit in including them in a more scientific scale, decoupled from penalties, to give the public a better sense of the relative harms involved.

Reject

The Government fully agrees that the drug classification system under the Misuse of Drugs Act is not a suitable mechanism for regulating legal substances such as alcohol and tobacco. The distinction between legal and illegal substances is not unequivocally based on pharmacology, economic or risk benefit analysis. It is also based in large part on historical and cultural precedents. A classification system that applies to legal as well as illegal substances would be unacceptable to the vast majority of people who use, for example alcohol, responsibly and would conflict with deeply embedded historical tradition and tolerance of consumption of a number of substances that alter mental functioning (ranging from caffeine to alcohol and tobacco). Legal substances are therefore regulated through other means.

However, the Government acknowledges that alcohol and tobacco account for more health problems and deaths than illicit drugs and this is why the Government intervenes in many ways to prevent, minimise and deal with the consequences of the harms caused by these substances through its dedicated Alcohol Harm Reduction Strategy and its smoking/tobacco programme. At the core of this work, which is given considerable resources, is a series of education and communication measures aimed at achieving long term change in attitudes. It is through this that the public continues to be informed in an effective and credible manner.



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